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8 Attorney for Plaintiff
9 DAMON MACKBEE

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION

13 DAMON MACKBEE,

14 Plaintiff,

15 v.

16 KILOLO KIJAKAZI, Acting
17 Commissioner of Social Security,

18 Defendant.

Case No. 2:20-cv-02471-JDP

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
~~[PROPOSED]~~ ORDER

19 IT IS HEREBY STIPULATED by and between the parties through their
20 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
21 attorney fees and expenses in the amount of \$7,450.00, under the Equal Access to
22 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all
23 legal services rendered on behalf of Plaintiff by counsel in connection with this civil
24 action, in accordance with 28 U.S.C. § 2412(d).

25 After the Court issues an order for EAJA fees to Plaintiff, the government will
26 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
27 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
28

1 to honor the assignment will depend on whether the fees are subject to any offset
2 allowed under the United States Department of the Treasury's Offset Program. After
3 the order for EAJA fees is entered, the government will determine whether they are
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
6 determines that Plaintiff does not owe a federal debt, then the government shall cause
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for
10 EAJA attorney fees and does not constitute an admission of liability on the part of
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
13 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
14 relating to EAJA attorney fees in connection with this action.

15 This award is without prejudice to the rights of Francesco Benavides to seek
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
17 clause provisions of the EAJA.

18
19 Respectfully submitted,

20
21 Dated: October 13, 2022

Law Offices of Francesco Benavides

22
23 By: /s/ Francesco Benavides
24 FRANCESCO P. BENAVIDES
25 Attorney for Plaintiff
26
27
28

1 Dated: October 13, 2022

PHILLIP A. TALBERT

United States Attorney

PETER THOMPSON

Acting Regional Chief Counsel, Region IX

Social Security Administration

5 By: Marcelo Illarmo*

MARCELO ILLARMO

Special Assistant U.S. Attorney

Attorneys for Defendant

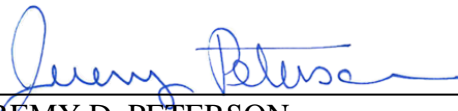
(*Permission to use electronic signature
obtained via email on October 13, 2022).

~~[PROPOSED]~~ ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$7,450.00 as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: October 17, 2022



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE